

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

JOHN FISHELL,

Plaintiff,

vs.

PURDUE UNIVERSITY FORT
WAYNE,

Defendant.

Cause No.

COMPLAINT

Comes now Plaintiff, John Fishell (hereinafter “Fishell”), by his counsel, and for his claim against Defendant, Purdue University Fort Wayne (hereinafter “PUFW”), alleges and says:

A. Fair Labor Standards Action.

1. Fishell brings this action against PUFW pursuant to Section 16(b) of the Fair Labor Standards Act (“FLSA”), 29 USC §216(b), for minimum wage and overtime pay violations.

2. Fishell is a resident of the State of Indiana, and was a resident of, and he was domiciled in, Delaware County, Indiana.

3. PUFW is an educational institution which was created by the State of Indiana, and which is operated by the State of Indiana, having its principal place of business within Allen County, Indiana.

4. Fishell was employed by Indiana University Purdue University Fort Wayne, now PUFW, from August of 2015 until on, or about October 6, 2020, at which time he was terminated.

5. During the period of Fishell's employment with it, PUFW has failed and refused to pay Fishell minimum wage compensation and overtime compensation for all hours which Fishell worked in excess of forty hours per week.

6. PUFW has intentionally and knowingly violated Fishell's right to earned wages through illegal practices regarding wages and overtime compensation.

7. In Fishell's case, PUFW has failed and refused to make a payment of accrued wages, at the overtime rate required by federal and state law.

8. Fishell brings this action as a result of his not being paid overtime compensation required by law.

9. This Court has jurisdiction over Fishell's claims as his FLSA claims raise a question of federal law, 29 USC §201, et seq.

10. This Court is the appropriate venue for this cause of action as Fishell worked for PUFW in Allen County, Indiana.

11. PUFW is an "enterprise," as that term is defined by the FLSA, covered by the overtime and minimum wage provisions of the FLSA.

12. PUFW violated the FLSA's minimum wage provisions when it did not compensate Fishell for all hours worked and for hours worked over 40 in a work week, at an overtime rate.

13. Fishell seeks all available damages, including unpaid wages, unpaid overtime compensation, liquidated damages, payment of reasonable attorney's fees, costs and

expenses, and any and all other damages to which he may be entitled for PUFW's violations of the FLSA.

B. Claim Under Indiana Wage Claim Act.

14. Fishell incorporates herein by reference paragraphs 2 through 13 above.

15. Because Fishell was terminated from his employment with PUFW, Fishell's wage claims are governed by the Indiana Wage Claim Act, I.C. 22-2-9- et seq.

16. Fishell has a statutory wage claims arising under the Indiana Wage Claim Act, I.C. 22-2-5-2.

17. Fishell's undersigned counsel has received a written assignment from the Indiana Department of Labor, authorizing his private prosecution the claim presented under the Indiana Wage Claim Act.

18. By way of this Claim, Fishell is seeking all available damages, including all unpaid wages, all underpaid wages, all available liquidated (treble damages), all attorney's fees, costs and expenses, plus any other damage to which Fishell may be entitled pursuant to law. Pursuant to I.C. 22-2-5-2, Fishell is seeking payment of unpaid wages, underpaid wages, plus all available damages, including, but not limited to, statutory damages due, plus all attorney's fees, costs and expenses.

C. Violation of the Family Medical Leave Act.

19. Fishell further brings this action pursuant to the provisions of the Family Medical Leave Act, 29 U.S.C. §2601 et seq. (the "FMLA") because, in the course of his employment with PUFW, Fishel applied for and was given, such leave from his work.

20. In violation of the FMLA PUFW interfered with Fishell's rights under the FMLA and retaliated against him for utilizing those rights.

21. This Court has further jurisdiction over Fishell's claims as his FMLA claims raise a question of federal law, 29 USC §201, et seq.

22. This Court is the appropriate venue for this cause of action as Fishell worked for PUFW in Allen County, Indiana.

WHEREFORE, Plaintiff, John Fishell, requests that the Court enter judgment in his favor and against Defendant, Purdue University Fort Wayne, and to issue all available relief to him, including, but not limited to, the following:

1. All damages available under the Fair Labor Standards Act, including all unpaid minimum wages, all unpaid overtime wages, all liquidated damages and all penalties;
2. All damages available under the Indiana Wage statutes, including all unpaid or late paid wages, all liquidated damages and all penalties;
- 3.. All damages available under the Family Medical Leave Act, including those for interference and/or retaliation.
4. All reasonable attorney's fees and expenses;
5. Costs;
6. Pre-judgment interest, if applicable; and
7. Any and all other relief just and proper in the premises.

THE LAW OFFICE OF ROBERT J. HUNT, LLC

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